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J. L. R.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/314,206 05/19/99 MENDLEIN

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EXAMINER

QM12/1106

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ENCINITAS CA 92024

JAWORSKI, F

ART UNIT

PAPER NUMBER

3737

#6

DATE MAILED:

11/06/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/314,206

Applicant(s)

Mendelheim et al

Examiner

Jann

Group Art Unit

3737

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 10-23-00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-35, 60-62 and 70-78 is/are pending in the application.
Of the above claim(s) 20-29 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-39, 30-35, 60-62 and 70-78 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892 1 sheet
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. Claims 20-29 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 5.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 1, 12-16, 30-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Boyd et al (US4796632) which teaches a holder including a securing portionmembers (interaction of 20,22) and a rigid housing e.g. 12 thicker than and having acoustically transmissive window 18, and wherein the window is size-matched to the retained ultrasound probe.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2-5, 9-12, 33, 60-62, 70, 75-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al in view of Lyon et al (US5897503) insofar as it would have been obvious in view of the latter to manufacture probe holder portions out of injection molded plastic polymers, col. 1 lines 38-54 for strength and wear characteristics. Boyd et al per se teaches use of a flexible film and rigid holder since the film must adapt to body contours while the holder must positively engage and retain the probe without release under use. The use of a surface couplant gel in association with a transmissive window is notoriously well-known in this art. Film rigidity claiming lacks meaning absent area definitions since deflection is related to distances of peripheral securement.

6. Claims 6-8, 17-18, 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al insofar as Boyd et al provides a planar window perimeter and the transmissive window is adaptable to become planar dependent upon fill level and the surface to which it is apposed. The probe could reasonably be about 3cm per side in normal applications. It is well-known to hygienically house medical components in containments to reduce risk of disease transmission in medical environments.

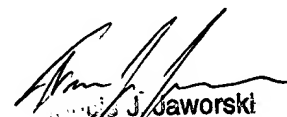
7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al as applied to claim 1 above, and further in view of Takano et al insofar as elements 40,60 of the

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latter in one or more sets would be stackable since they contain no internal protrusions if incorporated as a design outline into Boyd et al.

8. Claims 71-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boyd et al alone or further in view of Lyon et al as applied to claims above, and further in view of Bhagat et al (US4383533) insofar as the latter in col. 6 lines 22-40 teaches the use with anti-hypertensive/edema reducing drugs in close association with ultrasound monitoring of such treatment..

9. Any inquiry concerning this communication should be directed to Examiner Francis J. Jaworski at telephone number (703) 308-3061.


Francis J. Jaworski
Primary Examiner

FJJ:fjj

11-01-00